

ORDINANCE NO. 9899-13

**AN AMENDMENT TO THE ZONING ORDINANCE
OF THE CITY OF URBANA, ILLINOIS**

(Yard Encroachments)

(Plan Case #1699-T-98)

WHEREAS, the City Council of the City of Urbana, Illinois, adopted Ordinance #9293-124 on June 21, 1993 which adopted the 1993 Comprehensive Amendment to the 1979 Zoning Ordinance of the City of Urbana which is also known as the Urbana Zoning Ordinance; and

WHEREAS, the Urbana Zoning Administrator has submitted a petition to amend the Urbana Zoning Ordinance; and

WHEREAS, said petition was presented to the Urbana Plan Commission as Plan Case #1699-T-98; and

WHEREAS, after due publication in accordance with Section XI-7 of the Urbana Zoning Ordinance and with Chapter 24, Section 11-13-14 of the Illinois Revised Statutes, the Urbana Plan Commission held a public hearing to consider the proposed amendment on July 9, 1998; and

WHEREAS, the Urbana Plan Commission voted to forward Plan Case #1699-T-98 and the proposed amendments to the Urbana City Council with a recommendation for approval; and

WHEREAS, after due and proper consideration, the Urbana City Council has deemed it to be in the best interests of the City of Urbana to amend the text of the Urbana Zoning Ordinance as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS that the Zoning Ordinance of the City of Urbana, Illinois is hereby amended as follows:

Section 1. Section VI-5, Subsection B.5 of the Zoning Ordinance is hereby amended to read as follows:

5. Terraced and open unenclosed porches, that is, porches which may have roofs and mesh screening but which are not glassed in or otherwise walled or enclosed above a height of two and one-half (2 ½) feet above the porch floor, to a distance of five (5) feet into a minimum required yard outlined in Table VI-1, regardless of the average setback, but not within five (5) feet of the lot line. Open guardrails, when required by

the Building Code, shall not be construed as a violation of this subsection (See Building Codes). In addition, ramps or other structures necessary for handicapped accessibility may encroach into required yards.

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the Corporate Authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 20th day of July, 1998.

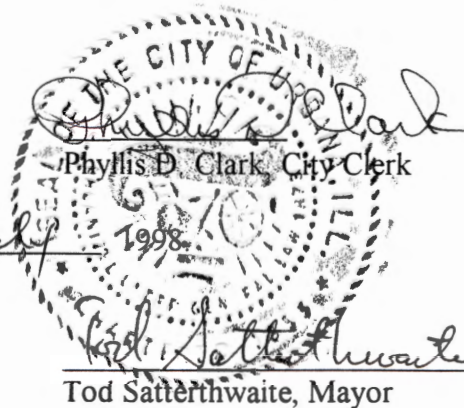
PASSED by the City Council on this 20 day of July, 1998.

AYES: Hayes, Huth, Kearns, Patt, Taylor, Wyman

NAYS:

ABSTAINED:

APPROVED by the Mayor this 27th day of July, 1998.



Phyllis D. Clark, City Clerk

Tod Satterthwaite, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the 20 day of July, 1998, the corporate authorities of the City of Urbana passed and approved Ordinance No. 9899-13, entitled "AN AMENDMENT TO THE ZONING ORDINANCE IN THE CITY OF URBANA, ILLINOIS (Yard Encroachments) which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 9899-13 was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the 28 day of July, 1997, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this ____ day of _____, 1998.

(SEAL)

Phyllis D. Clark, City Clerk

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

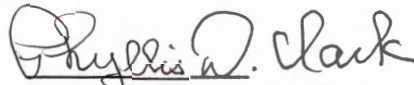
I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the 20 day of July, 1998, the corporate authorities of the City of Urbana passed and approved Ordinance No. 9899-13, entitled "AN AMENDMENT TO THE ZONING ORDINANCE IN THE CITY OF URBANA, ILLINOIS (Yard Encroachments) which provided by its terms that it should be published in pamphlet form.

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DATED at Urbana, Illinois, this 9th day of Sept., 1998.




Phyllis D. Clark, City Clerk



DEPT. OF COMMUNITY DEVELOPMENT SERVICES

PLANNING AND ECONOMIC DEVELOPMENT DIVISION

m e m o r a n d u m

TO: Bruce K. Walden, CAO

FROM: April D. Getchius, AICP, Director

DATE: July 15, 1998

**SUBJECT: An Amendment to the Zoning Ordinance of the City of Urbana -
Yard Encroachments - Plan Case #1699-T-98**

Introduction. The Zoning Administrator has prepared a text amendment to the Urbana Zoning Ordinance on front yard encroachments. The purpose of the amendment is to allow greater encroachment of open, unenclosed porches and handicapped accessibility structures into required front yards.

Background. The Urbana City Council has received significant background materials on this case through the previous mailing of the Plan Commission packets. This ordinance amendment allows the encroachment of porches into average front yards beyond what the current Zoning Ordinance permits. Currently, the ordinance allows open, unenclosed porches to encroach five feet into the required yard, whether it is the prescribed minimum or the imposed average setback. Over the years, the Zoning Board of Appeals and the City Council have repeatedly granted variances to allow open unenclosed porches to encroach into front yards. Generally, these cases are porches that encroach into the average front yard setback which is greater than the minimum front yard setback required in Table V-I.

Issues and Discussion. Staff prepared the attached ordinance to allow open, unenclosed porches to encroach into the average yard setback. Beyond that point, any open, unenclosed porch could still encroach five feet into minimum required yard outlined in Table VI-I.

This amendment solves several problems. First, when variances are routinely granted to the Zoning Ordinance for the same issue, it is generally an indication that there is something wrong with the Ordinance. In this case, the ZBA and City Council continually grant these variances. Staff technically has recommended against them because it is difficult to demonstrate a unique hardship, one of the criteria for granting variances. Amending the Ordinance as described would alleviate the repeated need for variances and be consistent with previous actions of the ZBA and Council.

Secondly, preparation of a zoning variance case requires a great deal of staff and property owner time. Amending the Ordinance allows property owners to build a new, open porch without an onerous process.

Thirdly, staff believes it is important to encourage people to use their front yards. Certainly, having active street frontages, people on their porches, etc. is supportive of neighborhood watch programs and builds a sense of community.

Staff recommended changing the amendment slightly to allow handicapped ramps to encroach into required yards. Since its presentation to the Plan Commission, staff changed the language to included any structures needed for handicapped accessibility rather than limiting the language to just ramps.

Proposed Amendment. Staff is proposing to amend Section VI-5, Subsection B.5. The attached ordinance includes the following language.

B. Except as otherwise provided, required yards shall be kept unobstructed and open to the sky for their entire depth and area. No building, structure, or portion thereof, or mechanical equipment shall be erected in, occupy, or obstruct a required yard, except as follows:

5. Terraced and open unenclosed porches, that is, porches which may have roofs and mesh screening but which are not glassed in or otherwise walled or enclosed above a height of two and one-half (2 ½) feet above the porch floor, to a distance of five (5) feet into a minimum required yard outlined in Table VI-1, regardless of the average setback, but not within five (5) feet of the lot line. Open guardrails, when required by the Building Code, shall not be construed as a violation of this subsection (See Building Codes). In addition, ramps or other structures necessary for handicapped accessibility may encroach into required yards.

Options

The City Council has the following options in this case:

- a. The City Council may approve the proposed text amendment described in Plan Case No. 1699-T-98.
- b. The City Council may deny approval of the proposed text amendment.
- c. The City Council may approve the proposed text amendment with minor changes.

Recommendation. At their July 9, 1998 meeting, the Urbana Plan Commission voted 5-1 to recommend the City Council approve the proposed amendment. Staff concurs with the Commission and recommends that the proposed amendment be approved based on the following findings:

- a. Approval of the amendment is consistent with previous cases the Zoning Board of Appeals and the Council have approved as they relate to open porch encroachment into required front yards.
- b. Encroachments of this kind are routinely found compatible with the neighborhood and not detrimental to surrounding properties in any way.
- c. Amending the Ordinance to allow the encroachment of handicapped accessibility ramps allows residents with particular difficulties to access their homes without concern about violation of the Zoning Ordinance.